

REMARKS

Claims 1-11, 13-20, 23 and 37-48 are pending in the application, of which claims 1, 37 and 43 are independent claims. Claims 1-11, 13-20, 23, and 37-48 stand rejected. Applicants have amended claims 1, 37, and 43. Support for the amendments may be found throughout the specification and drawings and at least at paragraph [00xx] and Fig. 3.

Non-Final Office Action

Applicants respectfully submit that the present Office Action was the first action received after a submission and an RCE. In addition, the Office Action states that the Applicants' arguments in the submission are moot in view of the new rejections. (Office Action at p. 38). Further, the Office Action is listed as a non-final Office Action on PAIR. Applicants note, however, that the Final Action box is checked on the Office Action Summary page. Applicants proceed with the assumption that the Office Action Summary page is in error and that the present Office Action is a non-final office action.

Claim Rejections – 35 U.S.C. § 112

Claims 1, 37, and 43 stand rejected under 35 U.S.C. 112, first paragraph for allegedly failing to comply with the written description requirement. Specifically, the Examiner states that the specification lacks support for the subject matter "the kernel mode of the operating system including instructions for a database management program." Applicants respectfully submit that a person of ordinary skill in the art at the time of the invention would recognize that the specification supports such subject matter. The specification states that in one embodiment a hardware/software interface system" can be an operating system having a kernel and a shell. (See paragraph [0083]). Paragraph [0091] states that the storage platform can be an integral part of the hardware/software interface system. Thus, these two paragraphs disclose an embodiment wherein the storage platform forms an integral part of the operating system. FIG. 3 illustrates that the file system and the database management program can be integrated at the same logical level in the operating system.

Applicants respectfully submit that one of ordinary skill in the art at the time of the invention would appreciate that the database management program can be a kernel mode component of the operating system since it is illustrated next to a kernel mode process: the NTFS file system. NTFS file system is a kernel mode component of operating systems that use NTFS that were in existence at the time of the invention, namely Windows XP® operating systems. Accordingly, for at least these reasons Applicants respectfully request reconsideration of the 35 U.S.C. 112, first paragraph, rejections of claims 1, 37, and 43.

Claim Rejections – 35 USC § 101

Applicants note that claims 1-11, 13-20, 23, and 43-48 have not been rejected under 35 U.S.C. § 101 and instead the Examiner states [i]n the absence of modifying disclosure of [computer readable storage medium] in the specification the examiner interprets the terms... as excluding printed paper, transmission media signals, or any form of energy, and the term ‘processor’ as limited to hardware embodiments, such that the claim clearly falls within a statutory class of invention as required under the terms of 35 U.S.C. 101” (Office Action p. 4). Applicants respectfully submit the subject matter ‘computer readable storage medium’ is clearly directed to tangible storage media such as RAM, ROM, etc. that can be read by a computer and that the term processor is clearly hardware.

Claim Rejections – 35 USC § 103

Claims 1, 37, and 43 stand rejected under 35 U.S.C. 103 as allegedly being unpatentable over US Pat. No. 6,018,342 (“Bristor”) in view of US Pat. No. 7,158,962 (“Nelson”) in further view of US Pat. App. Pub. 2005/00337777 (“Moraes”). Applicants have amended claims 1, 37 and 43. Applicants respectfully submit that the cited references do not teach or suggest each of Applicants’ claimed elements and accordingly, Applicants’ claims patently define over the cited art.

The Office Action states that Bristor teaches “the instructions for the database management program integrated with instructions for a file system” (Office Action p. 5). Applicants disagree, however Applicants have amended to clarify and expedite prosecution. Bristor, Col. 8, lines 41-50 state in full:

In the example of FIG. 1B, the only command which includes a component whose initial letter is "L" is the command "ls mystuff.*." Accordingly, the only item included in history menu 112L represents the command "ls mystuff.*."

To retrieve and re-enter the command "ls mystuff.*," the user selects the only item from history menu 112L as described more completely below. In response to the selection of the item by the user, the command "ls mystuff.*" is retrieved from a history database, which is described in greater detail below, and is processed as if the user had entered the command using conventional techniques.

Nothing in the cited portion of Bristor is remotely related to discussing a database management program that is integrated with instructions for a file system. Bristor is silent as to whether a database can be an integral part of a file system. In fact, Applicants have searched Bristor and submit that the term "file system" is completely absent from Bristor. Applicants submit that Bristor can not teach or suggest that claimed subject matter if it fails to completely mention part of the claim language.

On page 38 of the Office Action the Examiner states that Bristor shows a database management program integrated within an operating system because "[f]igure 1B would not run without the unix operating system." Applicants submit that the Examiner has not shown that the Unix operating system in Bristor includes a database managed program. Applicants submit that Bristor shows a database management program that is installed on a computer system that runs Unix. It does not show that Unix includes a database management program. Just because a program runs on a computer system that also has an operating system does not mean that the program is a part of the operating system.

For example, a person purchases a computer having an operating system such as Windows XP®. The Windows XP® operating system includes a file system program, a scheduler program, a security program, a memory manager program, etc. These are integral parts of the operating system that allow it to function as one would expect. If the person installs a videogame such as Call of Duty® on the computer system Call of duty® does not become part of the operating system. Instead, Call of duty® would be a program that asks

the operating system to run and the operating system runs it. Similarly, as illustrated in Bristor, a database management program does not become a part of an operating system when it is installed on a computer. It is a program that sends requests to the operating system to perform functions on its behalf, e.g., allocate memory, instantiate threads, schedule threads, access files, etc.

Regardless, Applicants have amended Claims 1, 37, and 43 to include the database management program encapsulates the file system. As noted above, Bristor is silent as to whether a database can be an integral part of a file system and it is further silent to the possibility of a database management program that encapsulates the file system.

Neither Mores nor Nelson are relied upon to cure the deficiencies of Bristor noted above, and Applicants submit that they do not.

Claims 2-3, 5, 7-8, 10, 38-39, 41, 44-45, and 47 stand rejected under 35 USC § 103 as allegedly being unpatentable over Bristor in view of Nelson in view of Moraes in further view of US Pat. App. Pub. 2004/0199521 (“Anglin”). Applicants respectfully submit that the rejected claims depend from independent claims 1, 37, and 43. The cited portions of Anglin are not relied upon to cure the deficiencies of Bristor, Nelson and Moraes noted above and Applicants submit that they do not. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 USC § 103.

Claims 4, 6, 9 and 11 stand rejected under 35 USC § 103 as allegedly being unpatentable over Bristor in view of Nelson in view of Moraes in further view of US Pat. App. Pub. 2004/0073560 (“Edwards”). Applicants respectfully submit that the rejected claims depend from independent claim 1. The cited portions of Edwards are not relied upon to cure the deficiencies of Bristor, Nelson and Moraes noted above and Applicants submit that they do not. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 USC § 103.

Claims 13-20 stand rejected under 35 USC § 103 as allegedly being unpatentable over Bristor in view of Nelson in view of Moraes in further view of US Pat. No. 6,578,046 (“Chang”). Applicants respectfully submit that the rejected claims depend from independent claims 1. The cited portions of Chang are not relied upon to cure the deficiencies of Bristor, Nelson and Moraes noted above and Applicants submit that they do not. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 USC § 103.

Claim 23 stands rejected under 35 USC § 103 as allegedly being unpatentable over Bristor in view of Nelson in view of Moraes in further view of US Pat. No. 6,438,545 (“Beauregard”). Applicants respectfully submit that the rejected claims depend from independent claims 1. The cited portions of Beauregard are not relied upon to cure the deficiencies of Bristor, Nelson and Moraes noted above and Applicants submit that they do not. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 USC § 103.

Claims 40, 42, 46, and 48 stand rejected under 35 USC § 103 as allegedly being unpatentable over Bristor in view of Nelson in view of Moraes in view of Anglin in further view of Edwards. Applicants respectfully submit that the rejected claims depend from independent claims 1. The cited portions of Anglin and Edwards were not relied upon to cure the deficiencies of Bristor, Nelson and Moraes noted above and Applicants submit that they do not. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 USC § 103.

CONCLUSION

Applicants request the Examiner reconsider the rejections and issue a Notice of Allowance of all the claims.

Date: November 19, 2009

/David M. Platz/

David M. Platz

Registration No. 60,013

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439